

## REMARKS

Claims 1-33 and 54-57 are currently pending pending in the application. By the above amendment, claim 1 is currently amended and claims 56 and 57 are canceled without prejudice. New claim 58 has been added, which depends from claim 1. No new matter has been introduced by virtue of the claim amendments and additions.

### Elections/Restrictions

Applicants acknowledge the Examiner's indication that claim 1 is generic to withdrawn claims 11-33 and 54-55. Applicants have previously canceled withdrawn claims 34-53 without prejudice and have currently canceled claims 56 and 57 without prejudice. However, at this time, Applicants have maintained claims 11-33 and 54-55 as withdrawn, but not canceled. If claim 1 is eventually allowed in its present form, or if claim 1 is subsequently amended but yet remains generic to all or some of such dependent claims, Applicants trust that the Examiner will maintain some or all of the withdrawn dependent claims 11-33 and 54-56 under 37 CFR 1.141 in the current application, as appropriate. In this regard, Applicants have not yet canceled claims 11-33 and 54-55 and will maintain these claims as withdrawn, as is their right.

Notwithstanding the finality of the restriction requirement, Applicants respectfully traverse the restriction requirement and hereby reserve the right to file the necessary petitions, if desired, to challenge the restriction requirements. At the very least, Applicants respectfully contend that the Examiner's restriction requirements are somewhat overly restrictive as the Examiner has asserted that the claimed inventions contain 9 different species in this action, but yet has restricted prosecution to one single species (claims 1-10).

However, the Examiner should note that under 37 CFR 1.146, if an application contains claims directed to *more than a reasonable number of species*, the Examiner may require restriction of the claims to *not more than a reasonable number of species* before taking further action in the application. What this means is that a reasonable amount of purported species

should be maintained and considered in this application. At this point in prosecution of this application, the Examiner's claim restriction to 1/9 the amount of species does not appear to be a reasonable amount of species, especially given the substantial overlap and relatedness of the purportedly different species.

In any event, this issue of reasonableness can be rendered moot in the event that the Examiner maintains or considers some or all of withdrawn dependent claims 11-33 and 54-55, which depend from claim 1. Furthermore, in the event that Applicants want to, or need to, amend any of claims 1-10 to include features recited in any of claims 11-33 and 54-55 to overcome or otherwise distinguish over cited art of record, Applicants trust that the Examiner will allow inclusion of any of such features without objection. Again, Applicants reserve their right to officially challenge the current restriction requirements in due course, if necessary.

#### **Claim Rejections - 35 U.S.C. §102**

Claims 1-10 are rejected as being anticipated by U.S. Patent Application Publication No. 2003/0147277 to Hsu. Applicants contend that at the very least, claim 1 is patentably distinct and patentable over Hsu.

For instance, Hsu does not disclose or suggest *a gated diode having a first terminal connected to a diffusion region of a transistor and a second terminal connected to a wordline*, as recited in claim 1. The Examiner contends that FIG. 4 of Hsu illustrates a gated diode memory cell including a "gated diode" (220) and "at least one transistor" (210). Hsu teaches that the transistor (210) is a *PMOS access transistor* and that transistor (220) is an *NMOS capacitor structure* (see, paragraphs [0032 ~ 0033]). Hsu teaches that the two transistors (210) and (220) are commonly connected via a floating gate (216) (see, FIGs. 3A, 4), wherein the NMOS capacitor structure (220) couples a word line (222) to the floating gate (216) (See, paragraph [0033] ).

In view of the above, claim 1 is not anticipated by Hsu in that the NMOS capacitor structure (220) is not a gated diode structure within the scope and context of the claimed invention. Indeed, on a fundamental level, a capacitor and gated diode are functionally different. Moreover, even assuming, *arguendo*, that the NMOS capacitor structure (220) is properly characterized as a “gated diode”, Hsu does not disclose or suggest a *gated diode having a first terminal connected to a diffusion region of a transistor and a second terminal connected to a wordline*. In other words, Hsu does not teach or suggest that the supposed “gated diode” (220) is connected between a diffusion region of the access transistor (210) and a wordline. In fact, FIG. 4 illustrates that the *NMOS capacitor* (220) is connected between a gate terminal (not diffusion region) of the access transistor (210) and the wordline WLo, and that the diffusion regions (source and drain) of the access transistor (210) are connected to a virtual ground line VGo and bitline BLo.

Therefore, for at least the above reasons, claim 1 is patentably distinct and patentable over Hsu. Claims 2-10 are patentable over Hsu at least by virtue of their dependence from claim 1. Withdrawal of the rejections is thus requested.

Respectfully submitted,

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